

For discussion on Thu, 5/17/01

**COOPERATIVE AGREEMENT  
BETWEEN  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
AND  
DEPARTMENT OF CONSUMER & BUSINESS SERVICES  
OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION  
(OR-OSHA)**

This Cooperative Agreement ("agreement") between the U.S. Environmental Protection Agency (EPA) and the Department of Consumer & Business Services, Oregon Occupational Safety & Health Division (OR-OSHA), describes the roles and responsibilities relating to enforcement activities of the Worker Protection Standard (WPS), OAR 437-004-6000.

**BACKGROUND**

EPA has broad-based enforcement authorities under FIFRA to ensure the proper use, handling, storage, and reporting requirements for pesticides. Pursuant to FIFRA Section 25, EPA promulgated the WPS regulation in 1992, to protect agricultural, nursery, greenhouse and forestry workers and pesticide handlers. In Oregon, the Oregon Department of Agriculture (ODA) has been the state lead agency with primary responsibility for FIFRA-related enforcement activities granted by Congress. Pursuant to a Memorandum of Agreement signed in 1991 and revised in 2000 between ODA and OR-OSHA, the occupational safety and health provisions in WPS, 40 CFR Part 170, are codified and enforced as occupational safety and health rules by OR-OSHA under OAR 437-004-6000.

This Cooperative Agreement creates a direct working relationship between EPA and OR-OSHA, and apart from ODA, in identifying OR-OSHA as the state lead agency with respect to the employee-employer aspects of WPS.

OR-OSHA has established the Agricultural Action Plan 2000 as a comprehensive approach for outlining enforcement activities related to farm worker housing, pesticides, and field sanitation. It also addresses staff training and inspection goals.

**ENFORCEMENT**

This section delineates the roles and responsibilities of each party for enforcement:

**EPA**

1. EPA will oversee enforcement activities conducted by OR-OSHA. Oversight activities include: (a) reporting requirements as stipulated within this agreement; (b) monitoring of field activities via side-by-side or ride-along inspections; and (c) communications related to the timely execution of the roles and responsibilities as outlined herein.

2. EPA will oversee significant agricultural-use pesticide situations including those referred to OR-OSHA by EPA under FIFRA Section 27. For these purposes, a significant situation or case is one which is characterized by either: (a) known or possible human health effects due to pesticide exposure, or (b) when medical treatment is provided. By mutual agreement, EPA can accept referral(s) on significant cases(s) from OR-OSHA.
3. EPA will review progress on the pesticide action plan commitment(s), possibly through a mid-year site visit to the state.
4. EPA will meet formally with OR-OSHA to conduct an end-of-fiscal year review following OR-OSHA's annual report, as stipulated in Items 4(b) and 5 in the following section.

#### OR-OSHA

1. Enforcement activities involving WPS will be conducted in accordance with established statutes, administrative rules, and policies and procedures. Program Directive A-235 (PD A-235), "Local Emphasis Program for on Pesticides and guidelines for scheduling and conducting inspections where pesticides are used, stored or manufactured in all types of occupational settings," outlines the scope, coordination, actions and reporting OR-OSHA will take with its enforcement activities. This is directive was updated March 19, 2001, and is included as an attachment to this agreement.
- 2.A Pesticide Coordinator (~~also known as the Project Officer~~) will be assigned to serve as the division's representative in matters related to WPS/pesticide enforcement issues, uniformity, and liaison with the EPA and ODA.
3. Referrals made by EPA under FIFRA Section 27, involving significant agricultural use pesticide situations, will be handled consistent with Item 1 of this section.
4. OR-OSHA will meet certain reporting requirements to EPA related to the following:
  - (a) Notify EPA on the status of significant cases. This provision serves to create a dialogue for communication and coordination on emerging issue(s) such as fatalities, accidents or catastrophic events; provision of technical assistance and other resources as agreeable; and ~~responding~~ response to media coverage.
  - (b) For the activities completed under the OR-OSHA's Agricultural Action Plan specific to pesticides, the information to be provided to EPA includes data on the "Pesticides Enforcement & Application Certification Cooperative Agreement Accomplishment Report," (EPA Form 5700-33H), as modified by mutual agreement between OR-OSHA and EPA. This report will be provided quarterly, within thirty days following the end of the preceding quarter.

Information reporting will be based on closed cases consistent with the federal fiscal year.

5. OR-OSHA will provide to EPA a copy of its annual evaluation report as discussed in PD A-235.

## GENERAL PROVISIONS

1. Nothing in this agreement is intended as surrendering existing statutory or regulatory authority of any party.
2. ~~The term of~~ This agreement will ~~be one (1) year~~, remain in effect unless otherwise revoked by any one of the signatories following thirty (30) days written notice of either party. This agreement may be amended or extended through mutual agreement of the parties. This agreement will become effective upon the date of last signing by the parties' representatives.
3. The parties agree that the cost of all services described in this agreement will be borne by the party providing such services.
4. For purposes of this agreement, each party will designate a point of contact (POC). The POCs agree to communicate informally, on a regular basis, but at least annually, to discuss problems or concerns that may arise during the term of this agreement. ~~Unless otherwise stipulated, the POCs will be the Project Officers as identified herein.~~
5. Any modifications to this agreement will be in writing, signed by both parties and attached to this agreement.

IN WITNESS THEREOF:

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Charles F. Findley, Acting Regional Administrator  
U.S. Environmental Protection Agency, Region 10  
Project Officer: Linda Liu (206)-553-1447

Date

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Peter De Luca, Administrator  
Oregon Occupational Safety & Health Division  
~~Project Officer:~~ Pesticide Coordinator: Garnet Cooke (503)-378-3274

Date